

**EIGHTY-EIGHTH GENERAL ASSEMBLY
2020 REGULAR SESSION
DAILY
HOUSE CLIP SHEET**

June 4, 2020

Clip Sheet Summary

Displays all amendments, fiscal notes, and conference committee reports for previous day.

Bill	Amendment	Action	Sponsor
<u>HJR 2004</u>	<u>H-8187</u>		WILBURN of Story
<u>HJR 2004</u>	<u>H-8188</u>		WILBURN of Story
<u>HJR 2004</u>	<u>H-8189</u>		BROWN-POWERS of Black Hawk
<u>HJR 2004</u>	<u>H-8190</u>		BROWN-POWERS of Black Hawk
<u>HJR 2004</u>	<u>H-8191</u>		WESSEL-KROESCHELL of Story
<u>HJR 2004</u>	<u>H-8192</u>		WESSEL-KROESCHELL of Story
<u>HJR 2004</u>	<u>H-8195</u>		ANDERSON of Polk
<u>HF 2626</u>	<u>H-8206</u>		ZUMBACH of Linn
<u>SJR 2001</u>	<u>H-8199</u>		HOLT of Crawford
<u>SF 2283</u>	<u>H-8193</u>	Adopted	KAUFMANN of Cedar
<u>SF 2284</u>	<u>H-8205</u>		HANUSA of Pottawattamie
<u>SF 2301</u>	<u>H-8200</u>		DEYOE of Story
<u>SF 2338</u>	<u>H-8204</u>		CARLSON of Muscatine
<u>SF 2349</u>	<u>H-8197</u>		COMMITTEE ON APPROPRIATIONS, et al

<u>SF 2356</u>	<u>H-8196</u>		JAMES of Dubuque
<u>SF 2360</u>	<u>H-8198</u>		COMMITTEE ON APPROPRIATIONS, et al
<u>SF 2364</u>	<u>H-8201</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8202</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8203</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8207</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8208</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8209</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8210</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8211</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8212</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8213</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8214</u>		HUNTER of Polk
<u>SF 2364</u>	<u>H-8215</u>		HUNTER of Polk
<u>SF 2400</u>	<u>H-8194</u>	Adopted	SORENSEN of Adair

HOUSE JOINT RESOLUTION 2004

H-8187

1 Amend the amendment, H-8179, to House Joint Resolution 2004
2 as follows:

3 1. Page 1, by striking lines 1 through 25 and inserting:

4 <Amend House Joint Resolution 2004 as follows:

5 _____. By striking everything after the resolving clause and
6 inserting:

7 <Section 1. The following amendment to the Constitution of
8 the State of Iowa is proposed:

9 Article I of the Constitution of the State of Iowa is amended
10 by adding the following new section:

11 Sec. 26. **Prohibition of racial discrimination.** The state
12 shall prohibit and bring to an end by all appropriate means,
13 including legislation, as required by the circumstances, racial
14 discrimination by any person, group, or organization.

15 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
16 to the Constitution of the State of Iowa is referred to the
17 general assembly to be chosen at the next general election for
18 members of the general assembly, and shall be published as
19 provided by law for three consecutive months previous to the
20 date of that election.>

21 _____. Title page, by striking lines 2 through 5 and inserting
22 <of the State of Iowa to prohibit racial discrimination.>>

By WILBURN of Story

H-8187 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8188

1 Amend House Joint Resolution 2004 as follows:

2 1. By striking everything after the resolving clause and
3 inserting:

4 <Section 1. The following amendment to the Constitution of
5 the State of Iowa is proposed:

6 Article I of the Constitution of the State of Iowa is amended
7 by adding the following new section:

8 Sec. 26. **Prohibition of racial discrimination.** The state
9 shall prohibit and bring to an end by all appropriate means,
10 including legislation, as required by the circumstances, racial
11 discrimination by any person, group, or organization.

12 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
13 to the Constitution of the State of Iowa is referred to the
14 general assembly to be chosen at the next general election for
15 members of the general assembly, and shall be published as
16 provided by law for three consecutive months previous to the
17 date of that election.>

18 2. Title page, by striking lines 2 through 5 and inserting
19 <of the State of Iowa to prohibit racial discrimination.>

By WILBURN of Story

H-8188 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8189

1 Amend the amendment, H-8179, to House Joint Resolution 2004
2 as follows:

3 1. By striking page 1, lines 1 through 25, and inserting:
4 <Amend House Joint Resolution 2004 as follows:

5 1. By striking everything after the resolving clause and
6 inserting:

7 <Section 1. The following amendment to the Constitution of
8 the State of Iowa is proposed:

9 Article I of the Constitution of the State of Iowa is amended
10 by adding the following new section:

11 Sec. 26. **Pandemic — protections.** During a pandemic, the
12 health care of Iowans and the rights of workers are public
13 concerns and all reasonable efforts shall be made to protect
14 them.

15 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
16 to the Constitution of the State of Iowa is referred to the
17 general assembly to be chosen at the next general election for
18 members of the general assembly, and shall be published as
19 provided by law for three consecutive months previous to the
20 date of that election.>

21 2. Title page, by striking lines 2 through 5 and inserting
22 <of the State of Iowa establishing that during a pandemic the
23 health care of Iowans and the rights of workers are public
24 concerns to be protected.>>

By BROWN-POWERS of Black Hawk

H-8189 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8190

1 Amend House Joint Resolution 2004 as follows:

2 1. By striking everything after the resolving clause and
3 inserting:

4 <Section 1. The following amendment to the Constitution of
5 the State of Iowa is proposed:

6 Article I of the Constitution of the State of Iowa is amended
7 by adding the following new section:

8 Sec. 26. **Pandemic — protections.** During a pandemic, the
9 health care of Iowans and the rights of workers are public
10 concerns and all reasonable efforts shall be made to protect
11 them.

12 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
13 to the Constitution of the State of Iowa is referred to the
14 general assembly to be chosen at the next general election for
15 members of the general assembly, and shall be published as
16 provided by law for three consecutive months previous to the
17 date of that election.>

18 2. Title page, by striking lines 2 through 5 and inserting
19 <of the State of Iowa establishing that during a pandemic the
20 health care of Iowans and the rights of workers are public
21 concerns to be protected.>

By BROWN-POWERS of Black Hawk

H-8190 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8191

1 Amend the amendment, H-8179, to House Joint Resolution 2004
2 as follows:

3 1. Page 1, line 13, after <of abortion.> by inserting
4 <This section shall not be construed to prohibit or affect the
5 disposition of unused embryos produced for the purposes of
6 in-vitro fertilization.>

By WESSEL-KROESCHELL of Story

H-8191 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8192

1 Amend the amendment, H-8179, to House Joint Resolution 2004
2 as follows:

3 1. Page 1, line 13, after <of abortion.> by inserting <This
4 section shall not be construed to prohibit the sale, use,
5 prescription, or administration of a measure, drug, or chemical
6 designed for the purposes of contraception.>

By WESSEL-KROESCHELL of Story

H-8192 FILED JUNE 4, 2020

HOUSE JOINT RESOLUTION 2004

H-8195

1 Amend the amendment, H-8179, to House Joint Resolution 2004
2 as follows:

3 1. Page 1, line 13, after <of abortion> by inserting <
4 unless the pregnancy is the result of rape or incest, or unless
5 the woman is certified by a physician to be in danger of death
6 unless the abortion is performed>

By ANDERSON of Polk

H-8195 FILED JUNE 4, 2020

HOUSE FILE 2626

H-8206

1 Amend House File 2626 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 DEPARTMENTAL ORGANIZATION

6 Section 1. Section 159.5, subsection 7, Code 2020, is
7 amended to read as follows:

8 ~~7. Establish and maintain a marketing news service bureau~~
9 ~~in the department which shall, in cooperation with the~~
10 ~~federal market news and grading division~~ Cooperate with the
11 agricultural marketing service of the United States department
12 of agriculture, to collect and disseminate data and information
13 relative to the market prices and conditions of agricultural
14 products raised, produced, and handled in the state.

15 Sec. 2. EFFECTIVE DATE. This division of this Act, being
16 deemed of immediate importance, takes effect upon enactment.

17 DIVISION II

18 ANIMALS

19 PART A

20 COMMERCIAL ESTABLISHMENTS

21 Sec. 3. Section 162.2A, subsection 3, paragraph d, Code
22 2020, is amended by striking the paragraph.

23 PART B

24 ANIMAL HEALTH

25 Sec. 4. NEW SECTION. 163.2A Part — definitions.

26 As used in this part, unless the context otherwise requires:

27 1. "*Animal*" means any livestock or agricultural animal as
28 defined in section 717A.1.

29 2. "*Interested person*" means the owner of an animal; a
30 person caring for the animal, if different from the owner of
31 the animal; or a person holding a perfected agricultural lien
32 or security interest in the animal under chapter 554.

33 Sec. 5. Section 163.3, Code 2020, is amended to read as
34 follows:

35 163.3 Veterinary and special assistants.

1 The secretary or the secretary's designee may appoint one
2 or more veterinarians licensed pursuant to chapter 169 in each
3 county as assistant veterinarians. The secretary may also
4 appoint ~~such~~ one or more special assistants as may be necessary
5 in cases of emergency, including as provided in section 163.3A.

6 Sec. 6. Section 163.3A, subsection 1, Code 2020, is amended
7 to read as follows:

8 1. The department may provide veterinary emergency
9 preparedness and response services necessary to prevent or
10 control a serious threat to the public health, public safety,
11 or the state's economy caused by the transmission of disease
12 among ~~livestock as defined in section 717.1 or agricultural~~
13 ~~animals as defined in section 717A.1~~. The services may include
14 measures necessary to ensure that all such animals carrying
15 disease are properly identified, segregated, treated, or
16 destroyed as provided in this Code.

17 Sec. 7. Section 163.3C, subsection 1, Code 2020, is amended
18 by striking the subsection.

19 Sec. 8. Section 163.3C, subsection 2, unnumbered paragraph
20 1, Code 2020, is amended to read as follows:

21 The department shall develop and establish a foreign animal
22 disease preparedness and response strategy for use by the
23 department in order to prevent, control, or eradicate the
24 transmission of foreign animal diseases among populations
25 of ~~livestock~~ animals. The strategy may be part of the
26 department's veterinary emergency preparedness and response
27 services as provided in section 163.3A. The strategy shall
28 provide additional expertise and resources to increase
29 biosecurity efforts that assist in the prevention of a foreign
30 animal disease outbreak in this state. In developing and
31 establishing the strategy, the department shall consult with
32 interested persons including but not limited to the following:

33 Sec. 9. Section 163.3C, subsection 3, Code 2020, is amended
34 to read as follows:

35 3. The department shall implement the foreign animal

1 disease preparedness and response strategy if necessary to
2 prevent, control, or eradicate the transmission and incidence
3 of foreign animal diseases that may threaten or actually
4 threaten ~~livestock~~ animals in this state. In implementing
5 the strategy, the department may utilize emergency response
6 measures as otherwise required under section 163.3A. The
7 department may but is not required to consult with interested
8 persons when implementing the strategy.

9 Sec. 10. NEW SECTION. 163.3D **Emergency measures —**
10 **abandoned animals — authorization and seizure.**

11 1. *a.* The department may seize one or more abandoned
12 animals pursuant to an authorization providing emergency
13 measures to prevent or control the transmission of an
14 infectious or contagious disease among any population or
15 species of animals.

16 *b.* The authorization must be any of the following:

17 (1) A declaration or proclamation issued by the governor
18 pursuant to chapter 29C, including as provided in section
19 163.3A.

20 (2) An order issued by the secretary or the secretary's
21 designee pursuant to a provision in this subtitle.

22 (3) Any other provision of law in this subtitle that
23 requires the department to control the transmission of an
24 infectious or contagious disease among a population or species
25 of animals in this state.

26 *c.* If there is a conflict between a measure authorized to
27 be taken under paragraph "a", that is less restrictive than the
28 standards or procedures provided in this section, the measures
29 authorized to be taken under paragraph "a" shall prevail.

30 2. The department may appoint veterinary assistants or
31 special assistants as provided in section 163.3 as required to
32 administer this section.

33 3. It is presumed that an abandoned animal belonging to a
34 species subject to emergency measures as provided in subsection
35 1 has been exposed to an infectious or contagious disease as

1 provided in the authorization.

2 4. As part of the seizure of an abandoned animal, the
3 department may take, impound, and retain custody of the animal,
4 including by maintaining the animal in a manner and at a
5 location determined by the department to be reasonable under
6 the emergency circumstances. The department may take action as
7 provided in this subtitle to ensure that all animals exposed to
8 an infectious or contagious disease are properly identified,
9 tested, segregated, treated, or destroyed as provided in this
10 subtitle.

11 5. *a.* The department may seize an animal if the department
12 has a reasonable suspicion the animal has been abandoned,
13 including by entering onto public or private property or into a
14 private motor vehicle, trailer, or semitrailer parked on public
15 or private property, as provided in this subsection.

16 *b.* The department may enter onto private property or into
17 a private motor vehicle, trailer, or semitrailer to seize an
18 abandoned animal if the department obtains a search warrant
19 issued by a court, or enters onto the premises in a manner
20 consistent with the laws of this state and the United States,
21 including Article I, section 8, of the Constitution of the
22 State of Iowa, or the fourth amendment to the Constitution of
23 the United States.

24 *c.* An abandoned animal shall only be seized by the
25 department pursuant to the following conditions:

26 (1) The department provides written notice of its
27 abandonment determination to all reasonably identifiable
28 interested persons. The department shall make a good-faith
29 effort to provide the notice to interested persons by regular
30 mail, hand delivery, telephone, electronic mail, or other
31 reasonable means. The notice shall include all of the
32 following:

33 (a) The name and address of the department.

34 (b) A description of the animal subject to seizure.

35 (c) The delivery date of the notice.

1 (d) A statement informing the interested person that the
2 animal may be seized pursuant to this chapter within one day
3 following the delivery date of the notice. The statement
4 must specify a date, time, and location for delivery of the
5 interested person's response designated by the department, as
6 provided in this subsection.

7 (e) A statement informing the interested person that in
8 order to avoid seizure of the animal, the person must respond
9 to the notice in writing, stating that the animal has not been
10 abandoned and identifying what measures are being taken to care
11 for and manage the animal.

12 (2) Notwithstanding subparagraph (1), if the department
13 determines that it is not feasible to provide direct notice
14 of its abandonment determination to an interested person,
15 the department shall deliver a constructive notice of the
16 determination to that person by any reasonable manner, which
17 may include posting the notice at or near the place where
18 the animal is located. The department shall also post the
19 constructive notice on the department's internet site.

20 d. The department may seize the animal if the department
21 fails to receive a written response by the interested person by
22 the end of normal office hours of the next day the department
23 is available to receive the response after written notice of
24 the department's abandonment determination is delivered.

25 e. Upon a determination by the department that exigent
26 circumstances exist, the department may enter onto private
27 property without a warrant and may seize an abandoned animal,
28 in a manner consistent with the laws of this state and
29 the United States, including Article I, section 8, of the
30 Constitution of the State of Iowa, or the fourth amendment to
31 the Constitution of the United States.

32 6. If an animal is seized pursuant to this section, the
33 department shall post a notice in a conspicuous place at the
34 location where the animal was seized. The notice shall state
35 the animal has been seized by the department pursuant to this

1 section and at least briefly describe where and when the animal
2 was seized, the species and number of animals seized, and that
3 a dispositional proceeding is to be conducted pursuant to
4 section 163.3E.

5 Sec. 11. NEW SECTION. 163.3E **Emergency measures —**
6 **abandoned animals — dispositional proceeding.**

7 1. *a.* The department shall file a petition with the
8 district court for the disposition of an animal seized pursuant
9 to section 163.3D as soon as practicable.

10 *b.* The court shall notify the department and all interested
11 persons of the dispositional proceeding in a manner determined
12 reasonable by the court. The court shall hear the matter
13 within twenty-four hours from the time the department's
14 petition is filed. The court may grant a continuance by a
15 motion of the department or upon petition by an interested
16 person. However, the interested person shall post a bond or
17 other security with the department in an amount determined by
18 the court, which shall not be more than the amount sufficient
19 to provide for the maintenance of the animal for the duration
20 of the continuance.

21 2. Upon a determination by the department that exigent
22 circumstances exist, the dispositional proceeding may be
23 conducted by an administrative law judge in the same manner
24 as an emergency adjudicative proceeding pursuant to section
25 17A.18A. The administrative law judge shall notify the
26 department and all interested persons of the dispositional
27 proceeding in a manner determined reasonable by the
28 administrative law judge given the circumstances in the case.
29 The procedures provided in this section may be supplemented
30 or modified by a declaration or proclamation issued by the
31 governor or an order issued by the secretary or the secretary's
32 designee pursuant to section 163.3D.

33 3. *a.* A court or administrative law judge shall issue an
34 order for the disposition of the animal after making any of the
35 following determinations:

1 (1) That no interested person holds a legal interest in
2 the seized animal. In that case, the animal shall be deemed
3 abandoned and the order shall extinguish all prior legal
4 interests in the animal. The order shall grant an undivided
5 ownership interest in the animal free from any security
6 interest or other agricultural lien or encumbrance to the
7 department.

8 (2) That an interested person holds a legal interest in
9 the seized animal, and the department has reasonable suspicion
10 to believe that the animal has been exposed to an infectious
11 or contagious disease. In that case, the order shall provide
12 for the disposition of the animal in the same manner as if the
13 department had identified the animal as having been exposed to
14 the infectious or contagious disease under the authorization
15 provided in section 163.3D.

16 (3) That a person holds a legal interest in the seized
17 animal, and there is no reasonable suspicion that the seized
18 animal has been exposed to an infectious or contagious disease.
19 In that case, the order shall direct the department to transfer
20 custody of the animal to the interested person. In the event
21 the animal is returned to the interested person, the department
22 shall not be subject to any claim for damages caused by the
23 seizure if the department's actions were taken pursuant to
24 the department's emergency efforts to establish and maintain
25 quarantine in response to a disease outbreak, as set forth in
26 section 669.14, subsection 3.

27 *b.* A reasonable suspicion asserted by the department may
28 be based on any credible evidence that shows the animal's
29 possible exposure to an infectious or contagious disease or the
30 animal was abandoned. This paragraph "b" does not require the
31 department to conduct a test of an animal to determine whether
32 an animal has been exposed.

33 *c.* If two or more interested parties may be transferred
34 custody of an animal by the department pursuant to paragraph
35 "a", subparagraph (3), the court or administrative law judge

1 shall order the department to transfer the animal to the owner
2 or otherwise to the interested person best able to care for the
3 animal without prejudicing the rights of any other interested
4 person. However, in any cause of action brought by an
5 interested person contesting the order to transfer under this
6 subsection, the department shall not be included as a party.

7 4. a. In a dispositional proceeding conducted by a court or
8 administrative law judge under this section, or in a separate
9 cause of action brought by the department against an interested
10 person, the court or administrative law judge may award the
11 department all of the following:

12 (1) An amount necessary to reimburse the department for
13 expenses incurred in seizing and maintaining an abandoned
14 animal as well as any costs for the disposition of the
15 abandoned animal.

16 (2) Expenses related to the investigation and adjudication
17 of the case.

18 b. In a dispositional proceeding conducted by a court under
19 this section, or in a separate cause of action brought by the
20 department against an interested person, the court may award
21 the department court costs and reasonable attorney fees.

22 c. An award ordered under this subsection shall be paid
23 by an interested party who is transferred a seized animal by
24 the court or administrative law judge, or the owner of the
25 seized animal as determined by the court or administrative law
26 judge. The amount awarded the department shall be subtracted
27 from the proceeds, if any, received by the department from the
28 disposition of the animal. Any amount awarded by a court shall
29 be taxed as part of the costs of the cause of action.

30 d. If more than one interested person holds a legal interest
31 in the animal, the court or administrative law judge shall
32 calculate the respective contributions of the interested
33 persons based upon the percentage of legal interest in the
34 seized animal held by each interested person. The amount paid
35 to the department shall be sufficient to allow the department

1 to repay the livestock remediation fund as provided in section
2 459.501 and fully reimburse the department for all costs, fees,
3 and expenses incurred by the department under this section.

4 Sec. 12. NEW SECTION. 163.3F **Interference with official**
5 **acts.**

6 1. A person shall not interfere with an official act of the
7 department taken in the performance of a duty to prevent or
8 control the transmission of an infectious or contagious disease
9 among a population or species of animals, if the official act
10 is authorized as part of any of the following:

11 a. A veterinary emergency preparedness and response service
12 pursuant to section 163.3A.

13 b. A foreign animal disease preparedness and response
14 strategy pursuant to section 163.3C.

15 c. An emergency measure pursuant to section 163.3D or
16 163.3E.

17 2. Under this section, an official act of the department
18 may be performed by a departmental employee, or a veterinary or
19 special assistant appointed pursuant to section 163.3.

20 Sec. 13. NEW SECTION. 163.33 **Feral swine.**

21 1. "*Feral swine*" means any swine running at large.

22 2. A person shall not knowingly release swine to become
23 feral swine.

24 3. Upon discovery of feral swine on public or private
25 property, the department may destroy or order the destruction
26 of the feral swine. However, the department shall not destroy
27 the feral swine or order the feral swine's destruction, unless
28 the department concludes, after conducting a reasonable inquiry
29 in the area where the feral swine is located, that the feral
30 swine's ownership cannot be determined. The department may
31 call upon a peace officer or appropriate state or federal
32 agency, including but not limited to the department of natural
33 resources or the department of public safety, to enforce this
34 section as set forth in section 159.16.

35 4. A person may destroy feral swine if the feral swine is

1 on the person's property or is damaging the person's personal
2 property. The person shall immediately notify the department
3 of the destruction of the feral swine and allow for possible
4 testing of the feral swine by the department.

5 5. This section shall not be construed to limit the powers
6 of the department otherwise granted by law.

7 Sec. 14. Section 163.61, subsection 3, Code 2020, is amended
8 by adding the following new paragraph:

9 NEW PARAGRAPH. c. A person who interferes with an official
10 act as provided in section 163.3F shall be subject to a civil
11 penalty of at least one hundred dollars but not more than ten
12 thousand dollars. In the case of a continuing violation,
13 each day of the continuing violation is a separate violation.
14 However, a person shall not be subject to a civil penalty
15 totaling more than two hundred fifty thousand dollars arising
16 out of the same violation.

17 Sec. 15. Section 459.501, subsection 3, paragraph a, Code
18 2020, is amended by adding the following new subparagraph:

19 NEW SUBPARAGRAPH. (3) (a) To allocate moneys to the
20 department of agriculture and land stewardship for the payment
21 of expenses incurred by the department of agriculture and land
22 stewardship associated with all of the following:

23 (i) Providing for seizure of animals pursuant to sections
24 169.3D and 169.3E.

25 (ii) Court costs, reasonable attorney fees, and expenses
26 related to the investigation and prosecution of the case
27 arising from the seizure of animals.

28 (b) The department of natural resources shall allocate
29 any amount of unencumbered and unobligated moneys demanded in
30 writing by the department of agriculture and land stewardship
31 as provided in this subparagraph. The department of natural
32 resources shall complete the allocation upon receiving the
33 demand.

34 (c) The department of agriculture and land stewardship
35 shall repay the fund any amount received from an interested

1 person pursuant to an order by a court in a dispositional
2 proceeding conducted pursuant to section 163.3E.

3 Sec. 16. REPEAL. Section 166D.3, Code 2020, is repealed.

4 Sec. 17. CODE EDITOR DIRECTIVE.

5 1. The Code editor is directed to make the following
6 transfer:

7 Section 163.3 to section 163.3G.

8 2. The Code editor shall correct internal references in the
9 Code and in any enacted legislation as necessary due to the
10 enactment of this section.

11 Sec. 18. CODE EDITOR DIRECTIVE. The Code editor shall
12 divide chapter 163, subchapter I, into parts, including
13 sections 163.1 and 163.2 as part A, sections 163.2A through
14 163.5, including sections amended or enacted as provided in
15 this part of this division of this Act, as part B, and sections
16 163.6 through 163.25 as part C.

17 PART C

18 FOOD ANIMALS

19 Sec. 19. NEW SECTION. 716.7A Food operation trespass.

20 1. As used in this section, unless the context otherwise
21 requires:

22 a. "Apiary" and "bee" mean the same as defined in section
23 160.1A.

24 b. "Food animal" means an animal belonging to the bovine,
25 caprine, ovine, or porcine species; farm deer as defined in
26 section 170.1; turkeys, chickens, or other poultry; fish or
27 other aquatic organisms confined in private waters for human
28 consumption; or bees.

29 c. "Food establishment", "food processing plant", and
30 "farmers market" mean the same as defined in section 137F.1.

31 d. "Food operation" means any of the following:

32 (1) A location where a food animal is produced, maintained,
33 or otherwise housed or kept, or processed in any manner.

34 (2) A location other than as described in subparagraph (1)
35 where a food animal is kept, including an apiary, livestock

1 market, vehicle or trailer attached to a vehicle, fair,
2 exhibition, or a business operated by a person licensed to
3 practice veterinary medicine pursuant to chapter 169.

4 (3) A location where a meat food product, poultry product,
5 milk or milk product, eggs or an egg product, aquatic product,
6 or honey is prepared for human consumption, including a food
7 processing plant, a slaughtering establishment operating under
8 the provisions of 21 U.S.C. §451 et seq. or 21 U.S.C. §601
9 et seq.; or a slaughtering establishment subject to state
10 inspection as provided in chapter 189A.

11 (4) A food establishment or farmers market that sells or
12 offers for sale a meat food product, poultry product, milk
13 or milk product, eggs or an egg product, aquatic product, or
14 honey.

15 *e. "Meat food product", "poultry product", and "prepared"*
16 mean the same as defined in section 189A.2.

17 2. A person commits food operation trespass by entering
18 or remaining on the property of a food operation without the
19 consent of a person who has real or apparent authority to allow
20 the person to enter or remain on the property.

21 3. Subsection 2 does not apply to any of the following:

22 *a.* A person entering a right-of-way, if the person has not
23 been notified or requested by posted signage or other means to
24 abstain from entering onto the right-of-way or to vacate the
25 right-of-way.

26 *b.* A person having lawful authority to enter onto the
27 property of the food operation, including but not limited to a
28 federal, state, or local government official.

29 *c.* A person who is given express permission by the owner of
30 the food operation to enter onto or remain on the property of
31 the food operation.

32 *d.* A person employed by a food operation while acting in the
33 course of employment.

34 Sec. 20. Section 716.8, Code 2020, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 8. *a.* For a first offense, a person who
2 commits food operation trespass is guilty of an aggravated
3 misdemeanor.

4 *b.* For a second or subsequent offense, a person who commits
5 food operation trespass is guilty of a class "D" felony.

6 PART D

7 EFFECTIVE DATE

8 Sec. 21. EFFECTIVE DATE. This division of this Act, being
9 deemed of immediate importance, takes effect upon enactment.

10 DIVISION III

11 FERTILIZERS AND SOIL CONDITIONERS

12 Sec. 22. Section 200.3, subsection 24, Code 2020, is amended
13 by striking the subsection.

14 Sec. 23. Section 200.14, Code 2020, is amended to read as
15 follows:

16 **200.14 Rules.**

17 1. *a.* ~~The secretary is authorized, after public hearing,~~
18 ~~following due notice, to~~ department may adopt rules ~~setting~~
19 ~~forth pursuant to chapter 17A providing~~ minimum general
20 safety standards for the design, construction, location,
21 installation, and operation of equipment for storage, handling,
22 transportation by tank truck or tank trailer, and utilization
23 of ~~anhydrous ammonia~~ fertilizers and soil conditioners.

24 ~~*a.*~~ *b.* The rules shall be such as are reasonably necessary
25 for the protection and safety of the public and persons using
26 ~~anhydrous ammonia~~ fertilizers or soil conditioners, and shall
27 be in substantial conformity with the generally accepted
28 standards of safety.

29 ~~*b.*~~ ~~Rules that are in substantial conformity with the~~
30 ~~published standards of the agricultural ammonia institute for~~
31 ~~the design, installation and construction of containers and~~
32 ~~pertinent equipment for the storage and handling of anhydrous~~
33 ~~ammonia, shall be deemed to be in substantial conformity with~~
34 ~~the generally accepted standards of safety.~~

35 2. *c.* ~~Anhydrous ammonia~~ Fertilizer and soil conditioner

1 equipment shall be installed and maintained in a safe operating
2 condition and in conformity with rules adopted by the ~~secretary~~
3 department.

4 ~~3. 2. The secretary shall enforce this chapter and, after~~
5 ~~due publicity and due public hearing,~~ department may adopt such
6 reasonable rules as may be necessary in order to carry into
7 effect the purpose, ~~and intent~~ and to secure the efficient
8 administration, of this chapter.

9 ~~4. 3. This chapter does not prohibit the use of storage~~
10 tanks smaller than transporting tanks nor the transfer of all
11 kinds of ~~fertilizer including anhydrous ammonia fertilizers~~
12 or soil conditioners directly from transporting tanks to
13 implements of husbandry, if proper safety precautions are
14 observed.

15 Sec. 24. EFFECTIVE DATE. This division of this Act, being
16 deemed of immediate importance, takes effect upon enactment.

17 DIVISION IV

18 WEIGHTS AND MEASURES

19 PART A

20 GENERAL

21 Sec. 25. Section 214.1, Code 2020, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 7. "*Weighmaster*" means a person who keeps
24 and regularly uses a commercial weighing and measuring device
25 to accurately weigh objects for others as part of the person's
26 business operated on a profit, cooperative, or nonprofit basis.

27 Sec. 26. Section 214.3, subsection 1, Code 2020, is amended
28 to read as follows:

29 1. ~~The~~ A license issued by the department for the inspection
30 of a commercial weighing and measuring device shall expire on
31 December 31 of each year, and for a motor fuel pump on June 30
32 of each year. ~~The amount of the fee due for each license shall~~
33 ~~be as provided in subsection 3, except that the fee for a motor~~
34 ~~fuel pump shall be four dollars and fifty cents if paid within~~
35 ~~one month from the date the license is due.~~

1 Sec. 27. Section 214.3, subsection 3, paragraph e,
2 subparagraph (2), Code 2020, is amended to read as follows:

3 (2) Retail motor fuel pump, ~~nine~~ four dollars and fifty
4 cents.

5 Sec. 28. Section 214.4, subsection 1, unnumbered paragraph
6 1, Code 2020, is amended to read as follows:

7 If the department does not receive payment of the license
8 fee required pursuant to section 214.3 within one month from
9 the due date, the department shall ~~send~~ deliver a notice to
10 the owner or operator of the device. ~~The notice shall be~~
11 ~~delivered by certified mail.~~ The notice shall state all of the
12 following:

13 Sec. 29. Section 214.6, Code 2020, is amended to read as
14 follows:

15 **214.6 Oath Duties of weighmasters weighmaster.**

16 ~~All persons keeping a commercial weighing and measuring~~
17 ~~device, before entering upon their duties as weighmasters, A~~
18 ~~weighmaster shall be sworn before some person having authority~~
19 ~~to administer oaths, to keep their~~ ensure that a commercial
20 weighing and measuring device is correctly balanced, to make
21 true weights, and ~~to~~ shall render a correct account to the
22 person having weighing done.

23 Sec. 30. Section 214.11, Code 2020, is amended to read as
24 follows:

25 **214.11 Inspections — recalibrations — penalty.**

26 1. The department shall provide for annual inspections
27 of all motor fuel pumps, including but not limited to motor
28 fuel blender pumps, licensed under this chapter. Inspections
29 shall be for the purpose of determining the accuracy ~~of the~~
30 ~~pumps' measuring mechanisms, and for such~~ and correctness of
31 motor fuel pumps. For that purpose the department's inspectors
32 may enter upon the premises of any wholesale dealer or retail
33 dealer, ~~as they are defined in section 214A.1, of motor fuel~~
34 ~~or fuel oil within this state.~~

35 2. Upon completion of an inspection, the inspector shall

1 affix the department's seal to the measuring mechanism of the
2 motor fuel pump. The seal shall be appropriately marked,
3 dated, and recorded by the inspector. If the owner of an
4 inspected and sealed motor fuel pump is registered with the
5 department as a servicer in accordance with section 215.23,
6 or employs a person so registered as a servicer, the owner
7 or other servicer may open the motor fuel pump, break the
8 department's seal, recalibrate the measuring mechanism if
9 necessary, and reseal the motor fuel pump as long as the
10 department is notified of the recalibration within forty-eight
11 hours, ~~on a form~~ in a manner provided by the department.

12 2. 3. A person violating a provision of this section is,
13 upon conviction, guilty of a simple misdemeanor.

14 PART B

15 MOTOR FUEL

16 Sec. 31. Section 214A.2A, subsection 1, Code 2020, is
17 amended to read as follows:

18 1. Fuel which is sold or is kept, offered, or exposed for
19 sale as kerosene shall be labeled as kerosene. The label
20 shall include the word "kerosene" ~~and a~~ or the designation as
21 ~~either "K1" or "K2"~~ "K1 kerosene", and shall indicate that
22 the kerosene is in compliance with the standard specification
23 adopted by A.S.T.M. international specification D3699 (1982).

24 Sec. 32. REPEAL. Section 214A.15, Code 2020, is repealed.

25 PART C

26 INSPECTIONS

27 Sec. 33. Section 215.4, Code 2020, is amended to read as
28 follows:

29 **215.4 Tag for inaccurate or incorrect device — reinspection**
30 **— license fee.**

31 A commercial weighing and measuring device found to be
32 inaccurate or incorrect upon inspection by the department
33 shall be rejected or tagged "condemned until repaired" and
34 the ~~"licensed for commercial use"~~ inspection sticker shall be
35 removed. If notice is received by the department that the

1 device has been repaired and upon reinspection the device is
2 found to be accurate or correct, ~~the a~~ license fee ~~shall not~~
3 may be charged for the reinspection. However, a second license
4 fee shall be charged if upon reinspection the device is found
5 to be inaccurate. The device shall be tagged "condemned" and
6 removed from service if a third reinspection fails.

7 Sec. 34. Section 215.7, Code 2020, is amended to read as
8 follows:

9 **215.7 Transactions by false weights or measures.**

10 1. A person shall be deemed to have violated the provisions
11 of this chapter ~~and shall be punished as provided in chapter~~
12 ~~189,~~ if the person does any of the following ~~apply~~:

13 ~~1. a.~~ Sells, trades, delivers, charges
14 for, or claims to have delivered to a purchaser an amount
15 of any commodity which is less in weight or measure than
16 that which is asked for, agreed upon, claimed to have been
17 delivered, or noted on the delivery ticket.

18 ~~2. b.~~ Makes a settlement for or enters
19 a credit, based upon any false weight or measurement, for any
20 commodity purchased.

21 ~~3. c.~~ Makes a settlement for or enters
22 a credit, based upon any false weight or measurement, for any
23 labor where the price of producing or mining is determined by
24 weight or measure.

25 ~~4. d.~~ Records a false weight or
26 measurement upon the weight ticket or book.

27 2. The department may adopt rules pursuant to chapter 17A
28 that allow for reasonable variations and exceptions for small
29 packages.

30 3. A person who violates this section is guilty of a simple
31 misdemeanor.

32 Sec. 35. Section 215.23, Code 2020, is amended to read as
33 follows:

34 **215.23 Servicer's license.**

35 1. ~~A servicer shall not install, service, or repair a~~

1 ~~commercial weighing and measuring device until the servicer~~
2 ~~has demonstrated that the servicer has available adequate~~
3 ~~testing equipment, and that the servicer possesses a working~~
4 ~~knowledge of all devices the servicer intends to install or~~
5 ~~repair and of all appropriate weights, measures, statutes, and~~
6 ~~rules, as evidenced by passing a qualifying examination to~~
7 ~~be conducted by the department and obtaining a license. The~~
8 ~~secretary of agriculture shall establish by rule pursuant to~~
9 ~~chapter 17A, requirements for and contents of the examination.~~
10 The department may adopt rules pursuant to chapter 17A setting
11 forth qualification requirements for persons applying for a
12 servicer's license, including an examination.

13 2. In determining ~~these~~ a servicer's qualifications, the
14 ~~secretary shall~~ department may consider the specifications
15 of the United States national institute of standards and
16 technology, handbook 44, "Specifications, Tolerances, and
17 Technical Requirements for Weighing and Measuring Devices",
18 or the current successor or equivalent specifications adopted
19 by the United States national institute of standards and
20 technology.

21 3. The ~~secretary shall~~ department may require ~~an annual~~ the
22 payment of license fee ~~of not more than five dollars~~ for an
23 amount established by rule for each license issued under this
24 section.

25 4. Each A license shall expire ~~one year~~ two years from its
26 date of issuance.

27 Sec. 36. REPEAL. Sections 215.3 and 215.8, Code 2020, are
28 repealed.

29 PART D

30 EFFECTIVE DATE

31 Sec. 37. EFFECTIVE DATE. This division of this Act, being
32 deemed of immediate importance, takes effect upon enactment.>

33 2. Title page, by striking lines 1 through 4 and inserting
34 <An Act relating to agriculture and the powers and duties of
35 the department of agriculture and land stewardship, including

H-8206 (Continued)

1 by providing for administration, programs, and regulations,
2 providing fees, providing penalties, making penalties
3 applicable, and including effective date provisions.>

By ZUMBACH of Linn

H-8206 FILED JUNE 4, 2020

SENATE JOINT RESOLUTION 2001

H-8199

1 Amend the amendment, H-8180, to Senate Joint Resolution
2 2001, as passed by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 19 and inserting:
4 <Amend Senate Joint Resolution 2001, as passed by the
5 Senate, as follows:

6 1. By striking everything after the resolving clause and
7 inserting:

8 <Section 1. The following amendment to the Constitution of
9 the State of Iowa is proposed:

10 Article I of the Constitution of the State of Iowa is amended
11 by adding the following new section:

12 Sec. 26. To defend and protect unborn children, we the
13 people of the State of Iowa declare that this Constitution does
14 not recognize, grant, or secure a right to abortion or require
15 the public funding thereof.

16 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
17 to the Constitution of the State of Iowa is referred to the
18 general assembly to be chosen at the next general election for
19 members of the general assembly, and shall be published as
20 provided by law for three consecutive months previous to the
21 date of that election.>

22 _____. Title page, lines 3 and 4, by striking <shall not be
23 construed to> and inserting <does not>

24 _____. Title page, lines 4 and 5, by striking <to require the
25 public funding of abortion> and inserting <require the public
26 funding thereof>>

By HOLT of Crawford

H-8199 FILED JUNE 4, 2020

SENATE FILE 2283

H-8193

1 Amend the amendment, H-8176, to Senate File 2283, as
2 amended, passed, and reprinted by the Senate, as follows:
3 1. Page 5, line 28, after <section.> by inserting <However,
4 following an election approving the discontinuance of the
5 authority to impose one or more of the taxes under this
6 chapter, the board of supervisors is prohibited from adopting
7 a resolution declaring emergency medical services to be an
8 essential county service under subsection 1A for a period of
9 two years beginning on the date of the election approving the
10 discontinuance.>

By KAUFMANN of Cedar

H-8193 FILED JUNE 4, 2020

ADOPTED

SENATE FILE 2284

H-8205

- 1 Amend Senate File 2284, as amended, passed, and reprinted by
2 the Senate, as follows:
3 1. Page 7, by striking lines 2 through 9.
4 2. By renumbering as necessary.

By HANUSA of Pottawattamie

H-8205 FILED JUNE 4, 2020

SENATE FILE 2301

H-8200

1 Amend Senate File 2301, as passed by the Senate, as follows:
2 1. Page 1, line 32, after <younger> by inserting <and that
3 is consistent with the recommendations of the American academy
4 of pediatrics committee on infectious diseases contained in the
5 most recent edition of the red book report>

By DEYOE of Story

H-8200 FILED JUNE 4, 2020

SENATE FILE 2338

H-8204

1 Amend the amendment, H-8173, to Senate File 2338, as passed
2 by the Senate, as follows:
3 1. Page 7, line 7, after <85B> by inserting <, or the rights
4 or limits related to police officers or fire fighters under
5 chapter 410 or 411>

By CARLSON of Muscatine

H-8204 FILED JUNE 4, 2020

SENATE FILE 2349

H-8197

1 Amend Senate File 2349, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, before line 1 by inserting:

4 <DIVISION I
5 CLOUD COMPUTING>

6 2. Page 1, line 2, by striking <subsection> and inserting
7 <subsections>

8 3. Page 1, after line 5 by inserting:

9 <NEW SUBSECTION. 5A. *"Foreign government"* means a
10 government other than the government of the United States, its
11 states, territories, or possessions.>

12 4. Page 2, after line 8 by inserting:

13 <e. Cloud computing service providers shall store state data
14 on servers located within the United States. The servers on
15 which state data is stored shall not be under the control of a
16 foreign government.>

17 5. Page 2, by striking lines 21 and 22 and inserting
18 <applications, including the date a state agency or department
19 began using each information technology application, the life
20 expectancy of each information technology application, and the
21 percentage of the information technology applications that are
22 cloud-based applications.>

23 6. Page 3, after line 5 by inserting:

24 <DIVISION ____
25 BUDGETARY INFORMATION

26 Sec. _____. Section 8.6, subsection 16, paragraph b, Code
27 2020, is amended to read as follows:

28 b. The department of revenue, the department of
29 administrative services, the office of the chief information
30 officer, the institutions governed by the state board of
31 regents pursuant to section 262.7, each judicial district's
32 department of correctional services, and the state department
33 of transportation shall provide salary data to the department
34 of management and the legislative services agency to operate
35 the state's salary model. The format and frequency of

1 provision of the salary data shall be determined by the
2 department of management and the legislative services agency.

3 Sec. _____. Section 8.35A, subsection 1, Code 2020, is amended
4 to read as follows:

5 1. By July 1, the director of the department of management,
6 in conjunction with the director of the department of
7 administrative services and the chief information officer of
8 the state, shall provide a projected expenditure breakdown
9 of each appropriation for the beginning fiscal year to the
10 legislative services agency in the form and level of detail
11 requested by the legislative services agency. By the fifteenth
12 of each month, the director, in conjunction with the director
13 of the department of administrative services and the chief
14 information officer of the state, shall transmit to the
15 legislative services agency a record for each appropriation
16 of actual expenditures for the prior month of the fiscal year
17 and the fiscal year to date in the form and level of detail
18 as requested by the legislative services agency. By October
19 1, the director, in conjunction with the director of the
20 department of administrative services and the chief information
21 officer of the state, shall transmit the total record of an
22 appropriation, including reversions and transfers for the prior
23 fiscal year ending June 30, to the legislative services agency.

24 Sec. _____. EFFECTIVE DATE. This division of this Act, being
25 deemed of immediate importance, takes effect upon enactment.>

26 7. Title page, line 3, after <assets> by inserting <,
27 budgetary reporting, and including effective date provisions>

28 8. By renumbering, redesignating, and correcting internal
29 references as necessary.

By COMMITTEE ON APPROPRIATIONS

MOHR of Scott, Chairperson

[H-8197](#) FILED JUNE 4, 2020

SENATE FILE 2356

H-8196

- 1 Amend Senate File 2356, as passed by the Senate, as follows:
- 2 1. Page 1, line 33, by striking <2024> and inserting <2020>
- 3 2. By striking page 2, line 27, through page 3, line 13, and
- 4 inserting:
- 5 <d. A representative of an institution of higher education
- 6 in Iowa with documented expertise in dyslexia and reading
- 7 instruction.
- 8 e. The department dyslexia consultant if maintained by the
- 9 department pursuant to section 256.9, subsection 60.
- 10 f. One school administrator.
- 11 g. One reading specialist.
- 12 h. One special education teacher.
- 13 i. An elementary core literacy teacher.
- 14 j. Two representatives of decoding dyslexia who are parents
- 15 of children with dyslexia.
- 16 k. One representative of decoding dyslexia who is an
- 17 individual with dyslexia.
- 18 l. One provider certified in a structured literacy reading
- 19 program.
- 20 m. One psychologist or speech language pathologist licensed
- 21 in the state of Iowa with experience in diagnosing dyslexia.
- 22 3. Members serving pursuant to subsection 2, paragraphs "b"
- 23 through "m", shall be appointed by the director. The initial
- 24 term of members serving pursuant to subsection 2, paragraphs
- 25 "f" through "m", shall be two years and such members whose terms
- 26 expire shall not be reappointed. Terms of members serving
- 27 pursuant to subsection 2, paragraphs "f" through "m", who are
- 28 appointed following the initial board shall be three years. A
- 29 vacancy on the board shall be filled in the same manner as the
- 30 original appointment. A member appointed to fill a vacancy
- 31 created other than by expiration of a term shall be appointed
- 32 for the remainder of the unexpired term.
- 33 4. The department, in coordination with the Iowa reading
- 34 research center, shall provide administrative support to the
- 35 board.>

H-8196 (Continued)

1 3. By renumbering, redesignating, and correcting internal
2 references as necessary.

By JAMES of Dubuque

H-8196 FILED JUNE 4, 2020

SENATE FILE 2360

H-8198

1 Amend Senate File 2360, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, line 4, after <to> by inserting <all>
4 2. Page 2, line 19, after <priority.> by inserting <Grant
5 awards shall be distributed as equitably as possible among
6 small, medium, and large school districts. For purposes of
7 this subsection, a small school district is a district with an
8 actual enrollment of fewer than six hundred pupils; a medium
9 school district is a district with an actual enrollment that
10 is at least six hundred pupils, but less than two thousand
11 five hundred pupils; and a large school district is a district
12 with an actual enrollment of two thousand five hundred or more
13 pupils.>

14 3. Page 3, line 9, after <moneys> by inserting <credited
15 to the therapeutic classroom incentive fund established under
16 subsection 5>

17 4. Page 4, line 31, by striking <2022> and inserting <2023>
18 5. Page 5, line 3, by striking <2021> and inserting <2022>
19 6. Page 11, by striking lines 8 through 24.
20 7. Page 11, by striking lines 30 through 32 and inserting
21 <or criminal liability which might otherwise be incurred or>
22 8. Page 12, by striking lines 1 through 5.
23 9. Page 12, by striking lines 8 through 12 and inserting:
24 <NEW SUBSECTION. 4. A school employee's employer and the
25 board of educational examiners shall not engage in reprisal or
26 retaliation against a school employee who, in the reasonable
27 course of the employee's employment responsibilities, comes
28 into physical contact with a student in accordance with this
29 section.>

30 10. Page 12, line 15, by striking <2020> and inserting
31 <2021>
32 11. Page 12, line 16, by striking <2021> and inserting
33 <2022>
34 12. Page 12, by striking line 35 and inserting <beginning
35 July 1, 2021, and ending June 30, 2022, the following>

H-8198 (Continued)

- 1 13. Page 13, line 9, by striking <2020> and inserting <2021>
- 2 14. Page 13, line 10, by striking <2021> and inserting
- 3 <2022>
- 4 15. By renumbering as necessary.

By COMMITTEE ON APPROPRIATIONS
MOHR of Scott, Chairperson

H-8198 FILED JUNE 4, 2020

SENATE FILE 2364

H-8201

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 4, by striking lines 21 through 26 and inserting
4 <and the private sector.>

By HUNTER of Polk

H-8201 FILED JUNE 4, 2020

SENATE FILE 2364

H-8202

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <DIVISION I

6 PUBLIC CONSTRUCTION BIDDING DEFINITIONS

7 Section 1. Section 26.2, subsection 3, paragraph b,
8 subparagraph (5), Code 2020, is amended to read as follows:

9 (5) Construction or repair or maintenance work performed
10 for a city utility under chapter 388 when such work is
11 performed by its employees or when such work relates to
12 existing utility infrastructure or to establishing connections
13 to existing utility systems.

14 (6) Construction or repair or maintenance work performed
15 for a rural water district under chapter 357A by its employees.

16 DIVISION II

17 ALTERNATIVE PROJECT DELIVERY CONTRACTS

18 Sec. 2. NEW SECTION. 26.17 **Alternative project delivery**
19 **contracts.**

20 1. As used in this section, unless the context otherwise
21 requires:

22 a. *"Alternative project delivery contract"* means either a
23 design-build or construction manager-at-risk contract.

24 b. *"Bridging criteria professional"* means a person,
25 corporation, partnership, or other legal entity that is
26 employed by or contracted by a government entity to assist
27 the government entity in the development of project design
28 criteria, requests for proposals, and any additional services
29 requested by the government entity to represent its interests
30 in relation to a project and who meets either of the following
31 requirements:

32 (1) Is duly licensed to practice architecture within the
33 state and can demonstrate specific knowledge of the project
34 type where alternative project delivery services are being
35 sought.

1 (2) Is duly licensed as a professional engineer within the
2 state and can demonstrate specific knowledge of the project
3 type where alternative project delivery services are being
4 sought.

5 c. *"Construction manager-at-risk"* means a sole
6 proprietorship, partnership, corporation, or other legal entity
7 that acts as a consultant to the government entity in the
8 development and design phases and then assumes the risk for
9 the construction, rehabilitation, alteration, or repair of a
10 project at the contracted fixed or guaranteed maximum price,
11 similar to a general contractor during the construction phase.
12 A project using a construction manager-at-risk does not include
13 the construction, reconstruction, or improvement of a highway,
14 bridge, or culvert.

15 d. *"Design-build"* means a project delivery method subject to
16 a two or three-phase selection process for which the design and
17 construction services are furnished under one contract.

18 e. *"Design-build contract"* means a contract between
19 a government entity and a design-builder to furnish the
20 architecture of record, engineering of record, and related
21 services as required for a given public project, and to
22 furnish the labor, materials, and other construction services
23 for the same public project. A design-build contract may be
24 conditioned upon subsequent refinements in scope and price, and
25 may permit the government entity to make changes in the scope
26 of the project without invalidating the design-build contract.

27 f. *"Design-build project"* means the design, construction,
28 alteration, addition, remodeling, or improvement of any
29 buildings, infrastructure, or facilities under contract with a
30 government entity. *"Design-build project"* does not include a
31 project for the construction, reconstruction, or improvement of
32 a highway, bridge, or culvert.

33 g. *"Design-builder"* means any individual, partnership,
34 joint venture, or corporation subject to a best-value or
35 qualification-based selection that offers to provide or

1 provides design services and general contracting services
2 through a design-build contract in which services within
3 the scope of the practice of professional architecture or
4 engineering are performed respectively by a licensed architect
5 or licensed engineer and in which services within the scope of
6 general contracting are performed by a general contractor or
7 other legal entity that furnishes architecture or engineering
8 services and construction services either directly or through
9 subcontracts or joint ventures.

10 *h. "Design bridging criteria package"* means the
11 performance-oriented program, scope, design, and performance
12 specifications for the design-build project sufficient to
13 permit a design-builder to prepare a response to a government
14 entity's request for proposals for a design-build project.

15 *i. "Government entity"* means the same as *"governmental*
16 *entity"* defined in section 26.2 including, for the purpose of
17 this section, the state board of regents.

18 *j. "Proposal"* means an offer by a design-builder in response
19 to a request for proposals to enter into a design-build
20 contract.

21 *k. "Request for proposals"* means the document by which
22 a government entity solicits proposals for a design-build
23 contract.

24 *1. "Stipend"* means a payment to a design-builder who did not
25 score the highest number of points at the conclusion of phase
26 three of the best-value selection process to defray the cost of
27 participating in phase two of the selection process, and for
28 the use of any intellectual properties obtained.

29 *2.* Notwithstanding any other law to the contrary, a
30 government entity shall be authorized to enter into an
31 alternative project delivery contract.

32 *3.* Construction manager-at-risk contracts.

33 *a.* A government entity shall publicly disclose its intent to
34 use the construction manager-at-risk method and its selection
35 criteria at least one week prior to publishing the request

1 for proposals and request for statements of qualifications.
2 The government entity shall publish its request for proposals
3 and statements of qualifications. Before or concurrently
4 with selecting a construction manager-at-risk, the government
5 entity shall select or designate an engineer or architect
6 who shall prepare the construction documents for the project
7 and who shall comply with all state laws, as applicable. If
8 the engineer or architect is not a full-time employee of the
9 government entity, the government entity shall select the
10 engineer or architect on a basis of demonstrated competence and
11 qualifications. The government entity's engineer or architect
12 for a project may not serve, alone or in combination with
13 another, as the construction manager-at-risk. This paragraph
14 does not prohibit a government entity's engineer or architect
15 from providing customary construction-phase services under
16 the engineer's or architect's original professional service
17 agreement in accordance with applicable licensing laws.

18 *b.* The government entity may provide or contract for,
19 independently of the construction manager-at-risk, inspection
20 services, testing of construction materials, engineering, and
21 verification of testing services necessary for acceptance of
22 the project by the government entity.

23 *c.* The government entity shall select the construction
24 manager-at-risk in a two-phase process.

25 (1) Phase one. The government entity shall prepare a
26 request for statements of qualifications for the first phase.
27 The request shall include general information on the project
28 site, project scope, schedule, selection criteria, the time
29 and place for receipt of statements of qualifications, and
30 other information that may assist the government entity in its
31 selection of a construction manager-at-risk. The selection
32 criteria may include the construction manager-at-risk's
33 experience, past performance, safety record, proposed personnel
34 and methodology, and other appropriate factors that demonstrate
35 the capability of the construction manager-at-risk. The

1 government entity shall not request fees or prices in phase
2 one.

3 (2) Phase two. In phase two, the government entity
4 shall issue a request for proposals. The government entity
5 may request that no more than five nor fewer than two
6 construction managers-at-risk, selected solely on the basis
7 of qualifications, provide additional information, including
8 the construction manager-at-risk's project proposal, proposed
9 fee, its price for fulfilling the general conditions, and its
10 distribution plan for sharing any cost savings after completion
11 of said project. Qualifications shall account for a minimum
12 of forty percent of the evaluation. Cost shall account for a
13 maximum of sixty percent of the evaluation.

14 d. For each phase, the government entity shall receive,
15 publicly open, and read aloud the names of the construction
16 managers submitting proposals or statements of qualifications,
17 respectively. Within forty-five days after the date of opening
18 the proposals or statements of qualification submissions, the
19 government entity or its representative shall evaluate and rank
20 each proposal or statement of qualifications submission in
21 relation to the criteria set forth in the applicable request.

22 e. The government entity or its representative shall
23 select the construction manager-at-risk that submits the
24 proposal that offers the best value for the government entity
25 based on the published selection criteria and on its ranking
26 evaluation. The government entity or its representative
27 shall first attempt to negotiate a contract with the selected
28 construction manager-at-risk. If the government entity or its
29 representative is unable to negotiate a satisfactory contract
30 with the selected construction manager-at-risk, the government
31 entity or its representative shall, formally and in writing,
32 end negotiations with that construction manager-at-risk and
33 proceed to negotiate with the next construction manager-at-risk
34 in the order of the selection ranking until a contract
35 is reached or negotiations with all ranked construction

1 managers-at-risk end.

2 *f.* The selected construction manager-at-risk shall publicly
3 advertise and receive bids or proposals from trade contractors
4 or subcontractors for the performance of all major elements of
5 the work other than the minor work that may be included in the
6 general conditions. A construction manager-at-risk submits
7 its sealed bid or sealed proposal in the same manner as all
8 other trade contractors or subcontractors. All sealed bids
9 or proposals shall be submitted at the time and location as
10 specified in the advertisement for bids or proposals and shall
11 be publicly opened and the identity of each bidder and their
12 bid amount shall be read aloud.

13 *g.* The construction manager-at-risk and the government
14 entity or its representative shall review all trade contractor,
15 subcontractor, or construction manager-at-risk bids or
16 proposals in a manner that does not disclose the contents of
17 the bid or proposal during the selection process to a person
18 not employed by the construction manager-at-risk, engineer,
19 architect, or government entity involved with the project. If
20 the construction manager-at-risk submitted bids or proposals,
21 the government entity shall determine if the construction
22 manager-at-risk's bid or proposal offers the best value for the
23 government entity. After all proposals have been evaluated and
24 clarified, the award of all contracts shall be made public.

25 *h.* If the construction manager-at-risk reviews, evaluates,
26 and recommends to the government entity a bid or proposal from
27 a trade contractor or subcontractor but the government entity
28 requires another bid or proposal to be accepted, the government
29 entity shall compensate the construction manager-at-risk by
30 a change in price, time, or guaranteed maximum cost for any
31 additional cost and risk that the construction manager-at-risk
32 may incur because of the government entity's requirement that
33 another bid or proposal be accepted.

34 *i.* If a selected trade contractor materially defaults in the
35 performance of its work or fails to execute a contract with a

1 construction manager-at-risk after being selected in accordance
2 with this subsection, the construction manager-at-risk may
3 itself, without advertising, fulfill the contract requirements
4 or select a replacement trade contractor to fulfill the
5 contract requirements.

6 4. In soliciting proposals for a design-build contract,
7 a government entity shall determine the scope and level of
8 detail required to permit design-builders to submit proposals
9 in accordance with the request for proposals given the nature
10 of the project.

11 5. a. A bridging criteria professional may be retained by
12 the government entity as the government entity's representative
13 to advise the government entity on design-build matters. The
14 use of the bridging criteria professional shall be strictly
15 to guide and administer the government's needs through the
16 process. The bridging criteria professional shall have
17 demonstrated sufficient previous experience in rules and
18 procedures specific to the design-build process. The bridging
19 criteria professional shall, along with the government
20 entity, be authorized to make recommendations or influence
21 the acceptance of any material, process, or procedure used
22 during the design and construction processes in accordance
23 with the criteria established for the project for the purpose
24 of evaluating compliance of the work. The bridging criteria
25 professional may be employed or contracted by the government
26 entity to act on behalf of the government entity for the sole
27 purpose of administrative procedures and may not be connected
28 in any means to the design-build team. The duration of
29 bridging criteria professional services, prior to the issuance
30 of a design-build contract, may begin when establishing
31 the government entity's program requirements through design
32 development if the complexity of the project with the
33 governmental entity merits this level of bridging information.
34 b. The design bridging criteria package developed by the
35 bridging criteria professional, which may include preliminary

1 designs for the project, may extend to the design development
2 level of detail, including design expectations, capacity,
3 durability, standards, ingress and egress requirements,
4 international building code considerations, performance
5 requirements, the government entity's operational expectations,
6 requirements for interior and exterior spaces, material and
7 building system quality standards, and design and construction
8 schedule timelines. Longevity of materials and system
9 performance requirements shall be identified in the design
10 bridging criteria package to identify materials and systems
11 that have the potential to exceed the length of time the
12 project is funded. The design bridging criteria package may
13 include site development requirements, description of the
14 site, surveys, soil and environmental information concerning
15 the site, provisions for utilities, storm water retention
16 and disposal, parking requirements, requirements related
17 to applicable local laws, local permitting requirements,
18 preliminary designs for the project or portions thereof, and
19 other criteria for the intended use of the project.

20 6. A government entity shall publicly disclose its intent to
21 solicit proposals for a design-build contract and its project
22 design bridging criteria package in the same manner that it
23 would post notice for the competitive bidding process in
24 section 26.3.

25 7. In soliciting proposals for a design-build contract, a
26 government entity shall establish in the request for proposals
27 a time, place, and other specific instructions for the receipt
28 of proposals. Proposals not submitted in strict accordance
29 with the instructions may be subject to rejection. Minor
30 irregularities may be waived by the government entity.

31 8. A request for proposals shall be prepared for each
32 design-build contract and shall contain, at minimum, the
33 following elements:

34 a. The procedures to be followed for submitting proposals,
35 the criteria for evaluating proposals and their relative

1 weight, and the procedure for making awards.

2 *b.* The proposed terms and conditions for the design-build
3 contract, if available.

4 *c.* The design bridging criteria package.

5 *d.* A description of the drawings, specifications, or other
6 information to be submitted with the proposal, with guidance
7 as to the form and level of completeness of the drawings,
8 specifications, or other information that will be acceptable.

9 *e.* A schedule for planned commencement and completion of the
10 design-build contract, if available.

11 *f.* Budget limits for the design-build contract, if any.

12 *g.* Requirements including any available ratings for
13 performance bonds, payment bonds, and insurance, if any.

14 *h.* If using a three-phase, best-value selection process, the
15 amount of the stipend that will be available.

16 *i.* Any other information that the government entity in
17 its discretion chooses to request including but not limited
18 to surveys, soil reports, drawings of existing structures,
19 environmental studies, photographs, references to public
20 records, or affirmative action and minority business enterprise
21 requirements consistent with state and federal law.

22 9. A government entity seeking to enter a design-build
23 contract shall solicit design-build proposals either by
24 using a three-phase, best-value process or a two-phase,
25 qualifications-based process.

26 *a.* When solicitations require a three-phase, best-value
27 selection process, the process shall be conducted as follows:

28 (1) Phase one. Request for statements of qualifications of
29 design-builders.

30 (a) The government entity shall review submitted statements
31 of the qualifications and assign points to each in accordance
32 with this section and as set out in the instructions of the
33 request for qualifications.

34 (b) All design-builders shall submit a statement of
35 qualifications that shall include but not be limited to:

1 (i) Demonstrated ability to perform projects comparable in
2 design, scope, and complexity.

3 (ii) References of owners for whom design-build projects,
4 construction projects, or design projects have been performed.

5 (iii) Qualifications of personnel who will manage the
6 design and construction aspects of the project.

7 (iv) The names and qualifications of the primary design
8 consultants and the primary trade contractors with whom the
9 design-builder proposes to subcontract or joint venture. The
10 design-builder may not replace an identified contractor,
11 subcontractor, design consultant, or subconsultant without the
12 written approval of the government entity.

13 (c) The government entity shall evaluate the qualifications
14 of all the design-builders who submitted statements of
15 qualifications in accordance with the instructions of the
16 request for qualifications. Qualified design-builders
17 selected by the government entity may proceed to phase two
18 of the selection process. The evaluation shall narrow the
19 number of qualified design-builders submitting statements of
20 qualifications to not fewer than two nor more than five. Under
21 no circumstances shall price or fees be a part of the request
22 for statements of qualifications criteria. Design-builders may
23 be interviewed in either phase one or phase two of the process.
24 Points assigned in phase one of the evaluation process shall
25 not carry forward to phase two or phase three of the process.
26 All qualified design-builders shall be ranked on points given
27 in phases two and three only.

28 (d) Once no fewer than two and no more than five qualified
29 design-builders have been selected, the government entity shall
30 issue its request for proposals and provide the design-builders
31 a specified amount of time in which to concurrently assemble
32 phase two and phase three proposals.

33 (2) Phase two. Solicitation of technical proposals,
34 including conceptual design for the project.

35 (a) A design-builder shall submit its design for the project

1 to the level of detail required for the proposal along with
2 such other information the government entity requests, which
3 may include a schedule, qualifications, and experience.

4 (b) The ability of the design-builder to meet the schedule
5 for completing a project as specified by the government entity
6 may be considered as an element of evaluation in phase two.

7 (c) Under no circumstances shall the design proposal
8 contain any reference to the cost of the proposal.

9 (d) The submitted designs shall be evaluated and assigned
10 points in accordance with the requirements of the request for
11 proposals. Phase two shall account for not less than forty
12 percent and no more than sixty percent of the total point score
13 as specified in the request for proposals.

14 (3) Phase three. Proposal of construction costs.

15 (a) The government entity shall invite the selected
16 design-builders to participate in phase three. The
17 design-builders shall provide a fixed cost of design and
18 construction. The proposal shall be accompanied by bid
19 security and any other items, such as statements of minority
20 participation, as required by the request for proposals.

21 (b) Cost proposals shall be submitted in accordance with
22 the instructions in the request for proposals. The government
23 entity shall reject any proposal that is not submitted within
24 the required time frame. Phase three shall account for not
25 less than forty percent and no more than sixty percent of the
26 total point score as specified in the request for proposals.

27 (c) Proposals for phase two and phase three shall be
28 submitted concurrently at the time and place specified in the
29 request for proposals, but in separate envelopes or other means
30 of submission. The phase three cost proposals shall be opened
31 and read aloud only after phase two design proposals have been
32 evaluated and assigned points, ranked in order, and posted.
33 Cost proposals shall be opened and read aloud at the time and
34 place specified in the request for proposals. At the same time
35 and place, the evaluation team shall make public its scoring

1 of phase two. Cost proposals shall be evaluated in accordance
2 with the requirements of the request for proposals.

3 (d) If the government entity determines that it is not in
4 the best interest of the government entity to proceed with the
5 project pursuant to the proposal offered by the design-builder
6 with the highest total number of points, the government entity
7 shall reject all proposals. In this event, all design-builders
8 with lower point totals in phases two and three shall receive
9 a stipend and the responsive design-builder with the highest
10 point total shall receive an amount equal to two times the
11 stipend. If the government entity decides to award the
12 project, the responsive design-builder with the highest point
13 total shall be awarded the contract.

14 (e) As an inducement to qualified design-builders, the
15 government entity shall pay a stipend, the amount of which
16 shall be established in the request for proposals, to each
17 design-builder who submitted a proposal but was not accepted.
18 Such stipend shall be no less than one-half of one percent
19 of the total project budget. Upon payment of the stipend to
20 such a design-builder, the government entity shall acquire
21 a nonexclusive right to use the design submitted by the
22 design-builder, and the design-builder shall have no further
23 liability for the use of the design by the government entity in
24 any manner. If the design-builder desires to retain all rights
25 and interests in the design proposed, the design-builder shall
26 forfeit the stipend.

27 b. When solicitations require a two-phase,
28 qualifications-based selection process, the process shall be
29 conducted as follows:

30 (1) Phase one. Request for statements of qualifications of
31 design-builders.

32 (a) The government entity must prepare a request for
33 statements of qualifications. The request shall include
34 general information on the project site, project scope,
35 schedule, selection criteria, the time and place for receipt

1 of statements of qualifications, and other information
2 that may assist the government entity in its selection of a
3 design-builder.

4 (b) The government entity shall state the selection
5 criteria in the request for statements of qualifications. The
6 selection criteria may include the design-builder's experience,
7 past performance, safety record, proposed personnel and
8 methodology, and other appropriate factors that demonstrate the
9 capability of the design-builder.

10 (c) Selection criteria will be ranked and assigned points
11 for each category. Point assignments shall be included as a
12 part of the request for statements of qualifications.

13 (d) The government entity shall not request fees or prices
14 in phase one. Any submissions with disclosed fees or prices
15 will be disqualified and removed from consideration.

16 (2) Phase two. Negotiations.

17 (a) Negotiations shall be conducted, beginning with the
18 design-builder ranked first. If a contract satisfactory
19 and advantageous to the government entity can be negotiated
20 at a price considered fair and reasonable and pursuant to
21 contractual terms and conditions acceptable to the government
22 entity, the award shall be made to that design-builder.

23 (b) In the event that a contract cannot be negotiated
24 with the design-builder ranked first, negotiations with that
25 design-builder shall be formally terminated. The government
26 entity shall conduct negotiations with the next-highest-ranked
27 design-builder and continue this process until a contract can
28 be negotiated that meets the terms of subparagraph division (a)
29 of this subparagraph.

30 Sec. 3. Section 262.34, subsection 1, Code 2020, is amended
31 to read as follows:

32 1. a. When the estimated cost of construction, repairs,
33 or improvement of buildings or grounds under charge of the
34 state board of regents, including construction, renovation, or
35 repairs by a private party of a property to be lease-purchased

1 by the board, exceeds one hundred thousand dollars, the board
2 shall advertise for bids for the contemplated improvement or
3 construction and shall let the work to the lowest responsible
4 bidder. However, if in the judgment of the board bids received
5 are not acceptable, the board may reject all bids and proceed
6 with the construction, repair, or improvement by a method as
7 the board may determine. All plans and specifications for
8 repairs or construction, together with bids on the plans or
9 specifications, shall be filed by the board and be open for
10 public inspection. All bids submitted under this section shall
11 be accompanied by a deposit of money, a certified check, or a
12 credit union certified share draft in an amount as the board
13 may prescribe.

14 b. The state board of regents may proceed with a
15 construction, repair, or improvement by using an alternative
16 project delivery contract in accordance with the provisions of
17 section 26.17.>

18 2. Title page, by striking lines 1 through 5 and inserting
19 <An Act relating to public construction bidding.>

By HUNTER of Polk

SENATE FILE 2364

H-8203

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 4, by striking lines 29 through 35 and inserting
4 <73A.28.>

By HUNTER of Polk

H-8203 FILED JUNE 4, 2020

SENATE FILE 2364

H-8207

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking page 1, line 31, through page 2, line 15.

4 2. Title page, lines 4 and 5, by striking <and including
5 effective and applicability provisions>

6 3. By renumbering as necessary.

By HUNTER of Polk

H-8207 FILED JUNE 4, 2020

SENATE FILE 2364

H-8208

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 9, by striking lines 7 through 15 and inserting
4 <entity.>

By HUNTER of Polk

H-8208 FILED JUNE 4, 2020

SENATE FILE 2364

H-8209

- 1 Amend Senate File 2364, as amended, passed, and reprinted by
- 2 the Senate, as follows:
- 3 1. By striking page 1, line 31, through page 2, line 15.
- 4 2. Page 9, line 23, after <entity> by inserting <, excluding
- 5 the state board of regents,>
- 6 3. Title page, lines 4 and 5 by striking <and including
- 7 effective date and applicability provisions>
- 8 4. By renumbering as necessary.

By HUNTER of Polk

H-8209 FILED JUNE 4, 2020

SENATE FILE 2364

H-8210

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 8, by striking lines 6 through 10 and inserting
4 <contract work and materials package.>

By HUNTER of Polk

H-8210 FILED JUNE 4, 2020

SENATE FILE 2364

H-8211

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <Section 1. Section 96.14, subsection 2, paragraph e, Code
6 2020, is amended to read as follows:

7 e. (1) If the department finds that any employer has
8 willfully failed to pay any contribution or part thereof when
9 required by this chapter and the rules of the department,
10 with intent to defraud the department, then such employer
11 shall in addition to such contribution or part thereof, pay
12 a contribution equal to fifty percent of the amount of such
13 contribution or part thereof, as the case may be.

14 (2) If the department finds that a failure to pay by
15 an employer pursuant to subparagraph (1) involves the
16 misclassification of an employee's wages on a federal 1099
17 record, for any subsequent finding by the department of such a
18 failure to pay by that employer involving the misclassification
19 of an employee's wages on a federal 1099 record, the additional
20 contribution required by subparagraph (1) shall instead equal
21 one hundred percent of the amount the employer failed to pay
22 due to the misclassification.>

23 2. Title page, by striking lines 1 through 5 and inserting
24 <An Act increasing certain penalties for employers willfully
25 misclassifying employees for unemployment compensation
26 contribution purposes.>

By HUNTER of Polk

H-8211 FILED JUNE 4, 2020

SENATE FILE 2364

H-8212

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 8, by striking lines 23 through 26 and inserting
4 <self-perform work for a trade package that is below one
5 hundred thousand dollars. If a trade package is in excess of
6 one hundred thousand dollars, the>

By HUNTER of Polk

H-8212 FILED JUNE 4, 2020

SENATE FILE 2364

H-8213

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 8, line 22, by striking <may> and inserting <shall>

By HUNTER of Polk

H-8213 FILED JUNE 4, 2020

SENATE FILE 2364

H-8214

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <Section 1. NEW SECTION. **85A.9 Occupational disease —**
6 **COVID-19 virus exposure.**

7 1. Notwithstanding section 85A.8, an employee, as described
8 in section 85A.3, who contracts the COVID-19 virus and who
9 alleges the employee's employment has subjected the employee
10 to an increased risk of exposure to the COVID-19 virus is
11 presumed to have an occupational disease arising out of and in
12 the course of employment if the requirements of subsection 2
13 are met.

14 2. An employee is presumed to have an occupational
15 disease arising out of and in the course of employment if the
16 employee's contraction of the COVID-19 virus is confirmed by
17 a positive laboratory test or, if a laboratory test is not
18 available for the employee, as diagnosed and documented by the
19 employee's licensed physician, licensed physician assistant, or
20 licensed advanced registered nurse practitioner based upon the
21 employee's symptoms. The employee shall provide a copy of the
22 positive laboratory test or the written documentation of the
23 diagnosis to the employer or the employer's insurance carrier.

24 3. If the employee has met the requirements of subsections
25 1 and 2, the presumption that the employee has an occupational
26 disease arising out of and in the course of employment shall
27 only be rebutted upon proof by the employer or the employer's
28 insurance carrier that the employment did not pose an increased
29 risk of exposure to the employee and that the employee's
30 disease was caused by a nonoccupational exposure to the
31 COVID-19 virus.

32 4. The date of injury for an employee who has contracted
33 the COVID-19 virus under this section shall be the date that
34 the employee was first unable to work due to symptoms of the
35 COVID-19 virus, or the date the employee was first informed,

1 through a positive laboratory test or diagnosis, that the
2 employee contracted the COVID-19 virus, whichever occurred
3 first.

4 5. An employee who has contracted the COVID-19 virus but
5 who is not entitled to the presumption provided under this
6 section is not precluded from claiming an occupational disease
7 as otherwise provided for in this chapter or from claiming a
8 personal injury.

9 6. The commissioner shall provide a detailed report on
10 workers' compensation claims due to the COVID-19 virus under
11 this section to the workers' compensation advisory committee
12 and the chairpersons and ranking members of the senate standing
13 committee on labor and business relations and the house
14 standing committee on labor by January 15, 2021.

15 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
16 importance, takes effect upon enactment.

17 Sec. 3. APPLICABILITY. This Act applies to employees, as
18 described in section 85A.3, who contract the COVID-19 virus on
19 or after the effective date of this Act.>

20 2. Title page, by striking lines 1 through 5 and inserting
21 <An Act relating to occupational disease compensation and
22 including effective and applicability date provisions.>

By HUNTER of Polk

H-8214 FILED JUNE 4, 2020

SENATE FILE 2364

H-8215

1 Amend Senate File 2364, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. By striking everything after the enacting clause and
4 inserting:

5 <Section 1. Section 85.27, subsection 4, Code 2020, is
6 amended to read as follows:

7 4. a. (1) For purposes of this section, the employer is
8 obliged to furnish reasonable services and supplies to treat an
9 injured employee, and has the right to choose the care unless
10 the employee has predesignated a physician as provided in
11 paragraph "b". If the employer chooses the care, the employer
12 shall hold the employee harmless for the cost of care until the
13 employer notifies the employee that the employer is no longer
14 authorizing all or any part of the care and the reason for
15 the change in authorization. An employer is not liable for
16 the cost of care that the employer arranges in response to a
17 sudden emergency if the employee's condition, for which care
18 was arranged, is not related to the employment. The treatment
19 must be offered promptly and be reasonably suited to treat the
20 injury without undue inconvenience to the employee.

21 (2) If the employee has reason to be dissatisfied with the
22 care offered, the employee should communicate the basis of
23 such dissatisfaction to the employer, in writing if requested,
24 following which the employer and the employee may agree to
25 alternate care reasonably suited to treat the injury. If the
26 employer and employee cannot agree on such alternate care, the
27 commissioner may, upon application and reasonable ~~proofs~~ proof
28 of the necessity therefor, allow and order other care. In an
29 emergency, the employee may choose the employee's care at the
30 employer's expense, provided the employer or the employer's
31 agent cannot be reached immediately.

32 (3) An application made under this ~~subsection~~ paragraph
33 "a" shall be considered an original proceeding for purposes
34 of commencement and contested case proceedings under section
35 85.26. The hearing shall be conducted pursuant to chapter

1 17A. Before a hearing is scheduled, the parties may choose
2 a telephone hearing, an audio-video conference hearing, or
3 an in-person hearing. A request for an in-person hearing
4 shall be approved unless the in-person hearing would be
5 impractical because of the distance between the parties to the
6 hearing. The workers' compensation commissioner shall issue a
7 decision within ten working days of receipt of an application
8 for alternate care made pursuant to a telephone hearing or
9 audio-video conference hearing or within fourteen working days
10 of receipt of an application for alternate care made pursuant
11 to an in-person hearing. The employer shall notify an injured
12 employee of the employee's ability to contest the employer's
13 choice of care pursuant to this subsection paragraph "a".

14 b. (1) An injured employee has the right to choose care,
15 unless care needs to be provided at the job site in response to
16 a life-threatening emergency, if the employee has predesignated
17 a physician who is a primary care provider, who has previously
18 provided medical treatment to the employee and has retained
19 the employee's medical records, to provide treatment for the
20 injury. Upon hire and periodically during employment, an
21 employer shall provide written notice to all employees who have
22 not yet predesignated a physician, of their rights under this
23 paragraph "b" to predesignate such a physician for treatment of
24 an injury, in a manner prescribed by the workers' compensation
25 commissioner by rule. The employer or the employer's insurer
26 shall not coerce or otherwise attempt to influence an injured
27 employee's choice of a physician to provide care. An employee
28 shall, as soon as practicable, notify the employer of an
29 injury, and upon receiving such notice of an injury from an
30 employee, the employer shall again provide written notice to
31 that employee of the employee's rights under this paragraph
32 "b" in a manner prescribed by the workers' compensation
33 commissioner by rule. If an employer fails to notify employees
34 of their right to choose a physician as provided in this
35 paragraph "b", the employee has the right to choose any

1 physician to provide treatment for the injury and the treatment
2 shall be considered care authorized under this section.

3 (2) For the purposes of this paragraph "b", "physician"
4 includes an individual physician, a group of physicians, or
5 a clinic. For the purposes of this paragraph "b", "primary
6 care provider" means an employee's personal physician who is
7 licensed to practice medicine and surgery, osteopathic medicine
8 and surgery, or osteopathy in this state or in another state
9 and provides primary care and who is a family or general
10 practitioner, a pediatrician, an internist, an obstetrician,
11 or a gynecologist. A physician who practices in another
12 state shall not be predesignated by an employee unless the
13 physician's office is located within sixty miles of where
14 the employee is employed or was injured unless the workers'
15 compensation commissioner allows otherwise. A physician chosen
16 by an injured employee to provide treatment is authorized to
17 arrange for any consultation, surgical consultation, referral,
18 emergency care, or other specialized medical services as the
19 physician deems necessary to treat the injury. The employer
20 shall pay for all such care, unless the workers' compensation
21 commissioner determines otherwise.

22 (3) If the employer has reason to be dissatisfied with the
23 care chosen by the employee, the employer should communicate
24 the basis of such dissatisfaction to the employee, in writing
25 if requested, following which the employee and the employer may
26 agree to alternate care reasonably suited to treat the injury.
27 If the employee and employer cannot agree on such alternate
28 care, the commissioner may, upon application and reasonable
29 proof of the necessity therefor, allow and order other care.

30 (4) An application made under this paragraph "b" shall be
31 considered an original proceeding for purposes of commencement
32 and contested case proceedings under section 85.26. The
33 hearing shall be conducted pursuant to chapter 17A. Before
34 a hearing is scheduled, the parties may choose a telephone
35 hearing, an audio-video conference hearing, or an in-person

1 hearing. A request for an in-person hearing shall be approved
2 unless the in-person hearing would be impractical because of
3 the distance between the parties to the hearing. The workers'
4 compensation commissioner shall issue a decision within ten
5 working days of receipt of an application for alternate care
6 made pursuant to a telephone hearing or audio-video conference
7 hearing or within fourteen working days of receipt of an
8 application for alternate care made pursuant to an in-person
9 hearing.

10 Sec. 2. Section 85.39, Code 2020, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 3. If the employee has chosen a physician
13 to provide care as provided in section 85.27, subsection
14 4, paragraph "b", when it is medically indicated that no
15 significant improvement from an injury is anticipated, the
16 employee may obtain a medical opinion from the employee's
17 physician, at the employer's expense, regarding the extent of
18 the employee's permanent disability. If the employee obtains
19 such an evaluation and the employer believes this evaluation
20 of permanent disability to be too high, the employer may
21 arrange for a medical examination of the injured employee by a
22 physician of the employer's choice for the purpose of obtaining
23 a medical opinion regarding the extent of the employee's
24 permanent disability. If an employee is required to leave
25 work for which the employee is being paid wages to attend
26 an examination under this subsection, the employee shall be
27 compensated at the employee's regular rate for the time the
28 employee is required to leave work, and the employee shall be
29 furnished transportation to and from the place of examination,
30 or the employer may elect to pay the employee the reasonable
31 cost of transportation. The physician chosen by the employer
32 to conduct the examination has the right to confer with and
33 obtain from any physician who has treated the injured employee
34 sufficient history of the injury to make a proper examination.
35 The refusal by the employee to submit to the examination shall

H-8215 (Continued)

1 suspend the employee's right to any compensation for the period
2 of the refusal. Compensation shall not be payable for the
3 period of suspension.

4 Sec. 3. APPLICABILITY. This Act applies to injuries
5 occurring on or after January 1, 2021.>

6 2. Title page, by striking lines 1 through 5 and inserting
7 <An Act relating to the choice of doctor to treat an injured
8 employee under workers' compensation laws and including
9 applicability date provisions.>

By HUNTER of Polk

H-8215 FILED JUNE 4, 2020

SENATE FILE 2400

H-8194

1 Amend the amendment, H-8159, to Senate File 2400, as
2 amended, passed, and reprinted by the Senate, as follows:
3 1. Page 2, after line 8 by inserting:
4 <____. Page 7, after line 7 by inserting:
5 <Sec. _____. PUBLIC HEALTH DISASTER EMERGENCY
6 GRANTS. Notwithstanding section 8B.11 and any rules adopted
7 by the office of the chief information officer pursuant to
8 chapter 8B, the office of the chief information officer may
9 provide grants of federal moneys obtained as a result of the
10 public health disaster emergency proclaimed by the governor on
11 March 17, 2020, to communications service providers to install
12 broadband infrastructure in this state or facilitate broadband
13 service in this state so long as the office of the chief
14 information officer complies with the federal requirements for
15 the use of the federal moneys.>
16 _____. By renumbering as necessary.>

By SORENSEN of Adair

H-8194 FILED JUNE 4, 2020

ADOPTED